

**Board Meeting Minutes  
January 23, 2003**

**Board for Professional Engineers and Land Surveyors  
2535 Capitol Oaks Drive  
Third Floor Conference Room  
Sacramento, California 95833  
(916) 263-2230**

**Thursday, January 23, 2003**

**Board Members Present:** Millicent Safran (President), Gregg Brandow (Vice-President), Arthur Duffy, James Foley, David Fruchtman, Andrew Hopwood, Stephen Lazarian, William Roschen, Elizabeth Warren, Michael Welch, Dale Wilson, and Edward Yu.

**Board Staff Present:** Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Nancy Eissler (Attorney General Liaison Analyst), Cindy Morris-Hoppe (Executive Analyst), Debbie Thompson (Budget Analyst), Howard Brunner (Staff Land Surveyor Consultant), Eileen Crawford (Staff Civil Engineer), Donna Vaum (Enforcement Analyst), Tiffany Criswell (Evaluator), Jacqueline Jenkins (Enforcement Analyst), Andrea Swan (Examination Analyst), Julie Campbell-Warnock (Examination Analyst), Joanne Arnold (Enforcement & Legislative Programs Manager), and Janeece Sargis (Examination Analyst).

**Public Present:** See Attached

**1. Roll Call to Establish a Quorum**

The meeting was called to order at 9:15 a.m. Roll call was taken, and a quorum was established.

**2. Public Comment**

Mr. Morris commented on issues he has with the staff's handling of a pending complaint investigation case. Mr. Duke and Ms. Christenson responded to his concerns and informed Mr. Morris that they were unable to answer any questions regarding a pending complaint investigation case during a Board meeting. Mr. Duke advised the Board not to listen to or respond to any of Mr. Morris's questions due to the pending complaint investigation case.

Mr. Greenlaw spoke about the Title Act Study of 1983 and distributed a handout.

Mr. Greenlaw recommended that the Board establish a sub-committee to look at and review pending complaint investigations and how they are handled by staff.

Mr. Markuson asked the Board to make sure that they really understand the Title Act Study. He also expressed his concerns over the increase of unlicensed practice in California.

**3. Closed Session**

The Board went into closed session at 9:30 a.m.

**4. Open Session to Announce the Results of Closed Session**

Ms. Christenson reported that the Board discussed pending litigation as noticed.

Ms. Christenson reported that the Board adopted the following passing cut scores for the October 2002 examinations:

- Engineer-in-Training 70 out of 100
- Land Surveyor-in-Training 70 out of 100
- Civil 8-hour 70 out of 100
- Seismic Principles 136 out of 287
- Engineering Surveying 176 out of 294
- Agricultural 70 out of 100
- Chemical 70 out of 100
- Control Systems 70 out of 100
- Electrical 70 out of 100
- Fire Protection 70 out of 100
- Geotechnical 430 out of 1000
- Industrial 70 out of 100
- Manufacturing 70 out of 100
- Mechanical 70 out of 100
- Metallurgical 70 out of 100
- Nuclear 70 out of 100
- Petroleum 70 out of 100
- Traffic 76 out of 120

Ms. Eissler reported that the Board adopted the Default Decision regarding William J. Hanks and adopted the Stipulation regarding Thomas Wilfred Hume.

**5. Approval of Consent Items (Possible Action)**

- a. Approval of the Minutes of the November 14 & 15, 2002, Board Meeting.**

**MOTION:** Mr. Hopwood/Mr. Wilson moved to approve the minutes of the November 14 & 15, 2002, Board Meeting, with the following amendments:

- Under Public Comment on Friday, November 15, 2003, \$1.5 million, should be \$1.5 **billion**.
- Under Item #9b, regarding, FY 2003/04 Budget, it should say, Special Civil exam occupational analysis **and cost** for needed computer upgrades.
- Under Item #9g, regarding, Possible Cancellation of April Examinations due to Funding Shortage, Mr. Duffy had additional comments that had erroneously been left out.
- Under Item #17a, paragraph1, Mr.Hopwood's name was added.

**VOTE:** 12-0, motion carried.

**b. Approval of Candidates for Certification/Licensure. (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

**MOTION:** Mr. Fruchtman/Mr. Hopwood moved to approve candidates for licensure and certification based on examination results, including successful appeal results and take home examination results, approved in closed session.

**VOTE:** 12-0, motion carried.

**6. Approval of Delinquent Reinstatements.**

**MOTION:** Mr. Foley/Mr. Hopwood moved to approve the Delinquent Reinstatements as follows:

**Civil**

**1. Shahram Aghamir**

Reinstate applicant's civil license once he pays all required delinquent renewal fees.

**2. John Lyman**

Reinstate applicant's civil license once he takes and passes the Board's Laws and Rules Examination.

**3. Raymer Peters**

Reinstate applicant's civil license once he takes and passes the Seismic Principles Examination, the Engineering Surveying Examination, and the Board's Laws and Rules Examination.

### **Electrical**

**1. Jesus C. Desosa**

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Rules Examination.

**2. Henry R. Streed**

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Rules Examination.

### **Manufacturing**

**1. Alfonso N. Lacson**

Reinstate applicant's manufacturing license once he takes and passes the Board's Laws and Rules Examination.

### **Mechanical**

**1. Paul M. Dias**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Rules Examination.

**2. Dennis Hurvitz**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

**VOTE:** 12-0, motion carried.

**7. Comity and Temporary Authorization Applications (Possible Action)**

**MOTION:** Mr. Hopwood/Mr. Lazarian moved to approve the amended Comity List, as distributed at the meeting.

**VOTE:** 12-0, motion carried.

**MOTION:** Mr. Lazarian/Mr. Hopwood moved to approve Temporary Authorization for Phillip W. Rosendahl and to also include a Temporary Authorization number.

**VOTE:** 9-2-1, motion carried. Mr. Welch, Mr. Foley, nay. Mr. Roschen abstained.

**8. Title Act Study Report (Possible Action)**

Ms. Christenson advised that all Board members had been sent a copy of the complete report, along with the Executive Summary of the report as prepared by the Department of Consumer Affairs. She advised that this item would be placed on the agenda for discussion at the April 2003 Board meeting.

Mr. Adler of SEAOC, stated that they are currently reviewing the report.

Mr. Stout stated that he has reviewed the report. He also stated that Louisiana has converted to a generic registration scheme from separate disciplines and recommended that California do the same.

Mr. Lazarian stated that it needs to be determined how much input the Board should have prior to any legislative proposals being released, especially since the Joint Legislative Sunset Review Committee directed that the study be conducted by an independent group under the auspices of the Department of Consumer Affairs.

President Safran appointed Mr. Lazarian and Mr. Foley as a sub-committee to work with Board staff and legislative staff to determine the Board's role.

**9. Proposed NCEES Land Surveyor Model Law Definition (Possible Action)**

Mr. Brunner gave an overview of what has been going on with the NCEES Land Surveyor Model Law Definition.

Ms. Christenson stated that if we want changes to be made, we need to express our concerns to NCEES and the other member boards, beginning with the Western Zone meeting in May.

**MOTION:** Mr. Duffy/Mr. Hopwood moved to have a letter drafted and sent to the Western Zone expressing concerns and to have the letter reviewed by Mr. Welch and Ms. Christenson and copy sent to the Board members.

**VOTE:** 12-0, motion carried.

**10. Examination/Qualifications**

**a. Increase of Multiple Choice Items for the Geotechnical Engineering Exam (Possible Action)**

Ms. Sargis explained that the Chauncey Group (the Board's Geotechnical Exam vendor) has recommended that the Geotechnical Exam be revised in the future. The recommendation is that the morning session of the exam include multiple choice items only and that the afternoon session include only design problems. This would mean that a significant number of new multiple choice items would need to be written for the October 2003 exam in order to fill the entire four hours of the morning session.

Mr. Wilson asked if there was any data that had been collected regarding the impact this type of change would have on the public. He suggested that an analysis of this type would be helpful in the future.

Dr. Brandow asked if there was data available regarding the correlation between how candidates performed on the multiple-choice items and the design problems for past exams. Ms. Sargis said that she would request that information from the Chauncey Group.

Mr. Foley stated that the industry is moving toward all multiple choice item exams.

**MOTION:** Mr. Hopwood/Mr. Foley moved to approve that the morning session of the Geotechnical Engineer Exam consist only of multiple choice items and that the afternoon session of the exam consist only of design/essay questions.

**VOTE:** 12-0, motion carried.

## **12. Legislative**

### **a. Discussion of Legislation for 2003 (Possible Action)**

Ms. Christenson reported that Friday, January 24, 2003, is the last day to submit any legislative proposals.

Ms. Arnold reported that CLSA has submitted a legislative proposal to repeal the Temporary Authorization for Land Surveyors, a proposal which the Board is already on record as supporting. Ms. Arnold also advised that we have submitted non-substantive, grammatical changes that will be included in the Senate Business and Professions Committee's omnibus bill.

Mr. Hopwood advised that he and Mr. Duffy would meet with Ms. Arnold following the meeting to determine if the Legislative Committee needs to meet prior to the April 2003 Board meeting.

### **b. Status of Regulations**

Ms. Arnold gave an update on the status of the regulatory proposals.

Regulations to be discussed/reviewed in 2003:

- ABET Approval of Foreign Degrees
- LSIT experience requirements

## **14. Technical Advisory Committee Reports (No Committee Meetings were held)**

### **a. Board Assignments to TACs (Possible Action)**

President Safran stated she would be making re-assignments for the Board liaisons to the TACs to include the new Board members.

## **15. Liaison Reports (Possible Action)**

**a. ABET**

Mr. Hopwood reported that he received a report from former Board Member David Chen regarding the ABET review at Cal State Fullerton.

- **Presentation on ABET and Education Credentials Evaluation International**

Dr. George Peterson, Executive Director, ABET and Muriel M. Zhou, Director, ECEI, gave a presentation on ABET and Education Credentials Evaluation International.

ABET is the Accreditation Board for Engineering Technology and is responsible for accrediting engineering programs across the nation. The Board recognizes ABET accredited programs by granting four years experience credit to those candidates who graduate with a bachelors of science from an ABET approved engineering program.

ECEI is a service provided by ABET and is utilized by several states. This service provides an evaluation of foreign degrees for equivalency to ABET standards as well as a screen for fraudulent degrees.

**b. NCEES**

- **Nominations for NCEES Award**

Ms. Christenson reported that all nominations have to be submitted by January 31, 2003, to be eligible to receive any type of award.

**MOTION:** Mr. Foley/Mr. Hopwood moved to submit the following nominations:

- Ms. Cindi Christenson, Meritorious Service Award
- Mr. Leo Ruth, Distinguished Service Award with Special Commendation.
- Mr. George Shambeck, Distinguished Service Award

**VOTE:** 12-0, motion carried.

**c. Technical and Professional Societies**

No report given.

**11. Administrative**

**a. Fund Condition**

Ms. Thompson reported on the changes to the fund condition dated December 30, 2002. These changes include the additional funding to the Board's budget of \$51,934 in the Board's expense budget for employee compensation and health benefits and another \$81,140 for state employee retirement cost increases. These expense budget increases

are pulled directly from the Board's reserve fund. Reductions to the Board's expenses due to the Statewide Position and Dollar Reduction Plan include a cut of \$80,401 in DCA's prorata costs and another \$252,000 for position funding eliminated due to vacancies.

President Safran questioned at what point the Board might expect its reserve fund to be borrowed to assist with the statewide financial deficit. Ms. Christenson replied that the Court Reporter's Board recently had their reserve fund loaned out for this reason. Ms. Thompson also replied that this would likely not occur until the Board's reserve is built up to a higher level which will take another two to three years from the time the fee increase regulations become effective.

Ms. Safran also requested Ms. Thompson to provide details on the purpose of the \$129 Century Charge as identified in the December 30, 2002 Fund Condition. Ms. Thompson indicated this information would be provided at the next Board meeting.

Mr. Fruchtman asked Ms. Thompson how many months in reserve of expenditures is ideal for the Board to maintain. Ms. Thompson replied that the Department of Finance recommends three to six months. Ideally, Ms. Thompson stated, the Board should not fall below a two to three month level. Such a reserve level is needed by the Board to pay for grading fee increases instituted by its national organization (NCEES), for mandated cost increases, DCA and/or statewide prorata increases. Also, decreases in exam application revenue have, at times, helped to bring the Board's revenue down below its expenditures in which case the reserve absorbs the shortfall. Mr. Fruchtman questioned what the status was of the fee regulations. Ms. Thompson indicated that the fee regulations request was re-submitted to DCA January 15, 2003 because the State and Consumer Services Agency (SCSA) indicated the Board's reserve fund would go up to high (above six months) with the initially proposed fees. In response, the Board lowered the proposed biennial renewal and application fee increases. At the same time, the Board's expenditures decreased from the due to the elimination of vacant position funding. This expense decrease enabled the B

Mr. Duke explained that there are two separate paths in the approval process for regulations. The first is review by the various state control agencies (DCA, SCSA, Department of Finance). It was during this process that the problem mentioned occurred. Simultaneously, the other path is the standard of rulemaking process that includes the Statement of Economic Interest (399 process) which cannot be completed without the approval of the proposed regulations by the control agencies.



Mr. Wilson questioned where the Board's budget augmentation for this year would be reflected in the fund condition. Ms. Thompson responded that the Board did not have to request an augmentation this fiscal year. A final evaluation of the exam counts showed the deficit to be less than expected.

Mr. Wilson pointed out for new Board members that while the Board may be able to increase its fees and thereby increase its reserve fund, it is possible the Board's budget could still face a shortage of funds once the fees are increased. This is because a separate approval process is required for expending of additional state funds beyond those budgeted. Ms. Thompson explained the different budget augmentation processes, pointing out that lengthy justification is required to obtain approval to increase state expenditures. Also, increases in state expenditures are now rarely approved due to the restrictions in place for the current statewide budget situation.

Regarding revenue received to date for this fiscal year, Ms. Thompson pointed out that application revenue projections so far have not changed. However, license renewal projections are slightly higher by approximately \$300,000.

**b. FY 2002/03 Budget**

The Board's expenditure projection for FY 2002-03 as of December 31, 2002 is \$7,269,975. The projected excess balance is \$24,096. The deficit projected at the last Board meeting was adjusted downward significantly once the Board made the \$33,000 in cuts approved at the last meeting and made further adjustments for lower than expected mid-year expenses. Projected expenditures also decreased once the Board was able to thoroughly evaluate the October exam population numbers that were reported higher than normal due to upgrades that took place in the automated Application Tracking System (ATS).

**c. FY 2002-03 Deficiency Request**

Ms. Thompson reported that the Board will no longer need to submit a deficiency request due to Board approved cuts and expenditures that are significantly lower than expected.

**12. Enforcement**

**a. Enforcement Program Update**

**1. Enforcement Outreach Program**

Ms. Eissler reported that Jacqueline Jenkins, Enforcement Outreach Coordinator, attended the CSPE Monterey Chapter meeting in January. Ms. Jenkins provided the attendees with information regarding the complaint investigation process and

discussed the most common types of complaints received by the Board.

**2. Status of Rulemaking Proposal regarding Amendments to Board Rule 404 (Definitions)**

Ms. Eissler advised that the Director of the Department of Consumer Affairs has until February 7, 2003, to review the rulemaking file. Once the Director approves it, it will be submitted to the Office of Administrative Law for final review.

**b. Amendments to Board Rules 404.1 and 404.2 (Definitions of Responsible Charge) (Possible Action)**

Ms. Eissler reported that due to the other items on the agenda for discussion at this meeting, it was determined that there would not be sufficient time for the Board to discuss this item. Therefore, this item will be discussed at the April 2003 meeting.

Mr. Lazarian advised that he would like the Enforcement Committee to meet to discuss this item on the Thursday morning prior to the April 2003 Board meeting.

**c. Adoption of Proposed Board Rules 475 & 476 (Codes of Professional Conduct) (Possible Action)**

Ms. Eissler reviewed the information contained in the staff report regarding the comments received from the public and the responses to those comments. Ms. Eissler advised the Board that no substantive changes needed to be made to the rulemaking proposal and language; however, there were three non-substantial, grammatical corrections that should be made, as pointed out in some of the comments received. She explained that these non-substantial, grammatical corrections do not require any further noticed public comment periods. Ms. Eissler recommended that the Board approve the recommended responses, as summarized in the staff report, and adopt the final language with the non-substantial, grammatical changes as shown in the agenda packet, for submittal of the rulemaking file.

**MOTION:** Mr. Hopwood/Mr. Foley moved to approve the recommended responses to the comments, to adopt Board Rules 475 and 476 as shown in the agenda packet, and to direct staff to prepare the final rulemaking file for submittal to the Department of Consumer Affairs and the Office of Administrative Law.

**VOTE:** 12-0, motion carried.

**16. President's Report**

President Safran advised that she would be updating the Standing Committee and TAC Committee assignments to include the new Board members.

**17. Executive Officer's Report**

**1. Administration Report**

**a. Executive summary report**

Ms. Christenson reviewed the information contained in the agenda.

**b. State budget**

Ms. Christenson advised that she had no further report beyond what was reported by Ms. Thompson under the Administrative report.

**2. Personnel**

**a. Hiring freeze**

The hiring freeze is still in effect.

**b. Vacancies**

Ms. Christenson reported that because of the hiring freeze, we have lost five positions and have two remaining vacancies that cannot be filled.

**3. Enforcement/Examination/Licensing**

**a. College Outreach**

No report given.

**b. Report on April Exam Administration**

Ms. Christenson reported that there are four exam sites for the April exam administration and that the San Mateo site has been moved to Pleasanton due to a last minute scheduling conflict at San Mateo.

**4. Publications/Website**

**a. Website activity**

No report given.

**5. Other**

**a. DCA update**

Ms. Christenson reported that Lynn Morris, the Deputy Chief for Board Relations, has been promoted and is now the Bureau Chief for the Bureau of Home Furnishings and Thermal Insulation.

**b. ATS**

Ms. Christenson reported that a manual count of all applications will be done due to problems with the counts we get from the ATS System.

- 18. Approval of Board Travel (Possible Action)**  
No Board Travel.
- 19. Other Items Not Requiring Board Action**
  - a. Next Board meeting: April 24 & 25, 2003, San Diego, CA**
- 20. Adjourn**  
The Board adjourned at 2:50 p.m.

## **PUBLIC PRESENT**

Steve Hao, CalTrans  
Carl C deBaca, CLSA  
Tom Stout, CSPE  
Richard Markuson, CELSOC  
Lee Adler, SEAOC  
Charles Greenlaw, S.E.  
Marti Kramer, CSPE  
George Peterson, ABET  
Muriel M. Zhou, ECEI/ABET  
Eric Berumen, DCA Training & Development  
Terry Morris